

1 BILL NO. G-92-08-30

2 GENERAL ORDINANCE NO - 44-92

3 AN ORDINANCE OF THE COMMON COUNCIL OF THE
4 CITY OF FORT WAYNE, INDIANA
5 AMENDING CHAPTER 33 OF THE MUNICIPAL CODE
6 OF THE CITY OF FORT WAYNE, INDIANA

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
8 WAYNE, INDIANA:

9 SECTION 1. That the following paragraphs shall be
10 deleted in their entirety:

11 Section 33-3 Definitions
12 (bb) Extended Group Home
13 (ff) Half-way House
14 (ll) Limited Group Home

15 Section 33-14 Permitted uses in Specific Districts
16 (a) (5) Limited Group Home
17 (b) (3) Limited Group Home
18 (b) (4) Extended Group Home
19 (b) (5) Half-way House
20 (c) (8) Extended Group Home
21 (c) (9) Half-way House

22 SECTION 2. The following language shall replace the
23 deleted paragraphs and shall be arranged in the order
24 indicated by the section and paragraph notations preceding the
25 text.

26 Section 33-3. Definitions

27 (aaaa) Developmental Disability, shall mean a severe,
28 chronic disability of an individual that:

29 (1) is attributable to a mental or physical impairment,
30 or a combination of mental and physical impairment (other
31 than a sole diagnosis of mental illness);

32 (2) is manifested before the individual is twenty-two
(22) years of age;

(3) is likely to continue indefinitely;

(4) reflects the individual's need for a combination and
sequence of special, interdisciplinary, or generic care,
treatment, or other services that are of lifelong or
extended duration and are individually planned and
coordinated; and,

(5) results in substantial limitations in at least three
(3) of the following:

- (i) Self-Care
- (ii) Receptive and expressive language
- (iii) Learning
- (iv) Mobility
- (v) Self-direction
- (vi) Capacity for independent living
- (vii) Economic self-sufficiency.

#523
1 (bbbb) Developmentally Disabled Individual, shall refer
2 to an individual who has a developmental disability.

3 (cccc) Residential Facility for the Developmentally
4 Disabled, shall be:

5 (1) for more than eight (8) developmentally disabled
6 individuals, exclusive of supervisory staff, councilors
7 or resident managers; and,

8 (2) established under a program authorized as a Community
9 Residential Program for Developmentally Disabled
10 Individuals and licensed by the State of Indiana as set
11 forth at I.C. 12-11-1.

12 (dddd) Mental Illness, shall mean a psychiatric
13 disorder that:

14 (1) substantially disturbs an individual's thinking,
15 feeling, or behavior; and,

16 (2) impairs the individual's ability to function.

17 The term includes alcoholism, and addiction to narcotics
18 or dangerous drugs

19 (eeee) Mentally Ill Individual, shall mean an
20 individual who;

21 (1) has a psychiatric disorder that substantially impairs
22 the individual's mental health; and,

23 (2) requires care, treatment, training or detention:

24 (i) because of the psychiatric disorder; or

25 (ii) for the welfare of the individual or others of
26 the community in which the individual resides.

27 (ffff) Residential Facility for the Mentally Ill, shall
28 mean a residential facility for the care, treatment, training
29 or detention of mentally ill individuals.

30 (gggg) Group Residential Facility, shall mean a
31 residential facility for a group of individuals (who are not
32 mentally ill or developmentally disabled) having full or part-
time supervisory staff providing care, education, and
participation in community activities, living in a district
authorizing residential uses.

Section 33-14

(a) R-1 District, One-Family Residence

(5) Residential Facility for the Developmentally
Disabled, such facility shall be required to meet
all other zoning requirements, ordinances and laws.

(9) Residential Facility for the Mentally Ill, such
facility shall:

(a) NOT be located within one thousand (1000)
feet of another Residential Facility for the
Mentally Ill, as measured between lot lines;

(b) meet all other zoning requirements,
ordinance and laws.

(d) RA District and RB District, Residence.

(10) Residential Facility for the Developmentally
Disabled, such facility shall be required to meet
all other zoning requirements, and ordinances and

#523
laws.

1 (11) Residential Facility for the Mentally Ill,
2 such facility shall:

3 (a) NOT be located within one thousand (1000)
4 feet of another Residential Facility for the
Mentally Ill, as measured between lot lines;

5 (b) meet all other zoning requirements,
6 ordinance and laws.

Section 33-12

7 (a) Such permitted contingent uses are identified as
8 follows:

9 (13) Group Residential Facility, provided such use
10 will not constitute a nuisance because of number of
11 residents, noise, vehicle traffic, parking or any
other type of physical activity.

12 SECTION 3. That this Ordinance shall be in full force
13 and effect from and after its passage and approval by the
14 Mayor.

15 C R Edmunds
Councilmember

16 APPROVED AS TO FORM AND LEGALITY:

17 Stanley A. Levine
18 Stanley A. Levine, Legal Advisor to
19 The Common Council, City of Fort Wayne
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Read the first time in full and on motion by Edmonds,
and duly adopted, read the second time by title and referred to the
Committee on Regulations (and the City Plan Commission
for recommendation) and Public Hearing to be held after due legal notice, at
the Common Council Council Conference Room 128, City-County Building, Fort
Wayne, Indiana, on _____, the _____ day of
_____, 19_____, at _____ o'clock
_____, M., E.S.T.

DATED: 8-11-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds,
and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>8</u>			<u>1</u>
BRADBURY	<u>✓</u>			
EDMONDS	<u>✓</u>			
GiaQUINTA	<u>A</u>			<u>✓</u>
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 10-13-92

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Walter E. Sharp, Deputy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. 9-44-92
on the 13th day of October, 1992

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Walter E. Sharp, Deputy Clerk

Thomas P. Henry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 14th day of October, 1992,
at the hour of 11:30 o'clock PM, M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
Walter E. Sharp, Deputy Clerk

Approved and signed by me this 20th day of October,
1992, at the hour of 3:10 o'clock PM, M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR

RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on August 11, 1992 referred a proposed text amendment which proposed amendment was designated as Bill No. G-92-08-30; and,

WHEREAS, the required notice of public hearing on such proposed amendment has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed amendment on August 17, 1992 and September 21, 1992.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this amendment be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

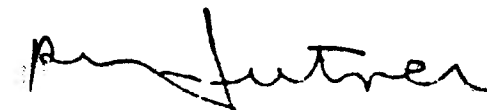
(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 28, 1992.

Certified and signed this
29th day of September 1992.



Robert Hutner
Secretary

FACT SHEET

G-92-08-30

BILL NUMBER

**Division of Community
Development & Planning****BRIEF TITLE**

Zoning Ordinance Amendment

APPROVAL DEADLINE**REASON****DETAILS****Specific Location and/or Address**

N/A

Reason for Project

The proposed amendment to the Zoning Ordinance shall bring all local definitions and regulations into compliance with state and federal law and shall provide for the administration and regulation of Group Homes and Group Residential Facilities.

Discussion (Including relationship to other Council actions)

August 17 & September 21, 1992 Public Hearings

See Attached Minutes of Meetings

September 28, 1992 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the seven (7) members present, six (6) voted in favor of the motion, one (1) did not vote. Motion carried.

POSITIONS**RECOMMENDATIONS****Sponsor**

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents****Applicant(s)**

Land Use Management - C&ED
City Department

Other

Opponents**Groups or Individuals**

Steve Howell, 2214 Dodge Av
Dan Miller, 7314 Burnsdale Dr

Basis of Opposition

-the close proximity of the
facilities is necessary for
cost & operational needs

**Staff
Recommendation**☒ For ☐ Against

Reason Against

**Board or
Commission
Recommendation****By**☒ For ☐ Against
☐ No Action Taken

☐ For with revisions to conditions
(See Details column for conditions)

**CITY COUNCIL
ACTIONS
(For Council
use only)**☐ Pass ☐ Other☐ Pass (as
amended) ☐ Hold☐ Council Sub. ☐ Do not pass

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Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

Date 3 August 1992

Date 29 September 1992

Date 29 September 1992

Date 29 SEPTEMBER 1992

Bill No. G-92-08-30 - Ordinance Amendment #523

The proposed amendment to the Zoning Ordinance shall bring all local definitions and regulations into compliance with state and federal law and shall provide for the administration and regulation of Group Homes and Group Residential Facilities.

Mel Smith stated that at the previous public hearing in August the staff and Commission felt that there was not enough time allotted for anyone who was opposed to the petition to speak. He stated that all of the previous testimony given at the first hearing will be made a part of this record and meeting tonight. Mr. Smith asked for testimony from people who did not speak at the previous meeting that had something new to add to the comments previously made.

THE FOLLOWING IS THE SUMMARIZATION OF THE PREVIOUS TESTIMONY FROM THE AUGUST PUBLIC HEARING

Greg Purcell, Executive Director, C&ED, appeared before the Commission. Mr. Purcell stated that it has come to the staff attention over the past several months that the current Zoning Ordinance, that regulates and provides for various kinds of group homes, is not in compliance with state statute and with case law with regard to zoning. As a result of this being brought to the staff's attention, they have been working on this and a particular case in West Central Neighborhood has pushed them to move along quickly. He stated that based upon the current Zoning Ordinance we have determined that our ordinance is simply unenforceable as it stands today. He stated that this amendment will delete a number of sections from the Ordinance. He stated that they have consulted with the Plan Commission Attorney, City Attorney, and City Council's Attorney with regard to the amendment. He stated that they have made a determination that there are really only two kinds of facilities that we can deal with under the Zoning Ordinance. One is a facility which is for the mentally ill, which under the Zoning Ordinance you can control, the maximum you can control that is a separation of distance of up to 3,000 feet between facilities. The other type of facility is for the developmentally disabled, and those facilities cannot be restricted so long as there are 8 or fewer residents in such facilities. He stated that they have had meetings with the neighborhood associations in West Central and meetings with providers of various facilities, and he felt that they had come up with a good compromise in terms of what the existing ordinance intent was, what we perceive to be the values and mores of the community of Fort Wayne, and the legal statutes and case law with regard to that. Steve Ranshaw, Wayne O'Brien and Scott Cassingham have been working very hard on this.

Steve Ranshaw, Senior Planner, with C&ED, appeared before the Commission. Mr. Ranshaw stated that this is a difficult question here, because you have to weigh the rights of the neighborhoods and their concerns with the rights of people with special needs to live. He stated that state law, as far as the developmentally disabled and the mentally ill, is relatively clear. He stated that

what the staff has done is take the requirements from state law and put that into City Ordinance and then we know that we are in compliance with at least the state statutes. He stated that there is a definition for mentally ill. He stated that the definition from the state does include alcoholics and people who are recovering from controlled substances. He stated that the definition for the developmentally disabled requires that the disability had to propagate itself before the age of 22 years of age. He stated that the state also goes further and defines how to regulate these facilities. He stated that the developmentally disabled cannot be required to be in any particular district, they are not required to get a special use permit. He stated that as long as they are licensed by the state and as long as there are 8 or less individuals in the facility they are allowed in any district without any special permission. He stated that when defining the mentally ill there is the ability to disperse the facilities for the mentally ill. He stated that is done by making a lineal distance from one facility to the other. He stated that the state statute says the maximum that can be is 3,000 feet. He stated that the measurement would go from each property line. He stated that the staff has done an analysis. He stated that they looked at the size of the city, the number of facilities that would be permitted with each of the different dispersal requirements and they have come up with, what they feel is an appropriate distance between facilities. He stated that distance is 1,000 feet, which is one third of what the state law would allow. He stated it is still more restrictive than what the old ordinance allowed, which stated that you could not have one in the same block face. He stated that there is a third group that does not meet the definition of developmentally disabled or mentally ill. He stated that in the definition section of the ordinance they have created a new facility called a "Group Residential Facility". He stated that this definition was created to try to catch all of those facilities where there is a professional, full time or part time, staff member that is providing special care services. He stated that this could be for battered women or any number of other people with special needs that would not fit under the other two categories. He stated that they have set up a procedure, which would require that a Group Residential Facility be taken before the Board of Zoning Appeals for approval as a contingent use. He stated that they have tried to help the Board of Zoning Appeals and establish a physical criteria for these requests. He stated this has been done so the Board will know exactly what to look at when these facilities come in for approval, and also so the facilities know what kind of arguments they need to make when they go before the Board.

Mel Smith questioned what effect this new ordinance would have on the facilities that are currently in place.

Mr. Ranshaw stated that they would be considering legal non-conforming uses.

Don Schmidt questioned if the state allows the city to go as far as

3,000 feet apart in distance, why did the city not choose to go with the most restrictive distance of 3,000 feet.

Mr. Ranshaw stated that the state gives you the leeway of 0 to 3,000 feet to distance these facilities. He stated that when they took a look at the distancing they felt the distance of 3,000 feet was too restrictive. He stated that they tried to come up with a figure that was so restrictive that it severely limited the number of facilities that would be provided in the city, but still would provide for the dispersal of the facilities. He stated that this dispersal would not only help the neighborhoods but this also helps the people in the facilities. He stated that if they are trying to mainstream people back into society, it would not help to group all of the facilities together. He stated that court cases have said this and judges have upheld dispersal on the ruling that it is good for the people with the mental illness that they are trying to mainstream.

Don Schmidt questioned then if the staff was stating that the people in the facilities were going to have interaction with people in the neighborhood.

Mr. Ranshaw stated he felt that was one of the goals of the providers of the group facilities is to have some interaction.

Mr. Purcell stated that one of the things that the staff is trying to do is to go from the old ordinance. He stated that the old ordinance allowed one facility per block face. He stated that is generally about 400 feet. He stated that 1,000 feet really makes it more restrictive than what is currently allowed in the Zoning Ordinance. He stated that the staff concern was to not impact a certain neighborhood so that they would have all of these facilities. He stated that he did not feel that this was the last time that this issue would be before the Commission. He stated that this new federal "American's With Disabilities Act" has a number of things in it, one of the things that the federal law defines as a disability, is people who are recovering alcohol or drug abuse. He stated that he felt the issue maybe before the courts within the fairly new future. He stated that he felt this ADA was opening up a number of areas for potential litigation in terms of what is and what is not a disability and how they are viewed.

John Shoaff stated that he was of the understanding that West Central was the spur that started this amendment. He questioned if they had used West Central as a model for their ordinance.

Mr. Purcell stated that they did not try to do it on a given neighborhood. He stated that they figured it on what they felt was a reasonable distance and to avoid impacting a given neighborhood. He stated that it would vary, depending upon the type of neighborhood you have.

Robert Wright stated that he lived in the West Central Neighborhood

and applaud the efforts of the staff to address the issue. He stated that he felt it would best serve the goals of the facilities to have some dispersal, to allow access to other areas of the city.

John Shoaff requested that staff supply the Commission with the data that they used to come up with their recommendations.

The following people spoke to the text amendment.

Marta McCrady, Director of Hope House
Dennis Lamount, Director of Freedom House
Dick Katt, Executive Director of Washington House
Representative from Park Center
Paul Arnold, Psychologist
Sally Ley, Executive Director Franciscan Center
Ron Davenport, Development Director for the Washington House
Virginia McCaskey, Park Center

- it was stated by the providers that people who are chemically addicted should not be defined, as is done by the state, as mentally ill
- the close proximity of the facilities is necessary to enable the facilities to share staff and equipment
- these facilities are not for profit organizations that work on limited budgets and spacing the facilities at 1,000 feet apart would add extra cost to their operation
- the people occupying these facilities are not using drugs or alcohol - they have come from an in-patient facility prior to be accepted into one of these facilities
- these facilities have proven through the years to be good neighbors
- without the transitional residences in the city it would be near impossible to accommodate the people who occupy these facilities
- the people who run these facilities are committed to the community and the city of Fort Wayne
- they are limited to certain neighborhoods due to the limited budget that they have - they have to be able to buy homes where they can afford them
- the limiting of 1 facility for every 1,000 feet would severely limit their program - they would request 2 facilities for every 1,000 feet

Robert Hutner questioned if the 1,000 feet between facilities is approved, could someone apply to the Board of Zoning Appeals to put one closer than a 1,000 feet.

Greg Purcell stated that they could but they would have to apply for a Use Variance and the criteria for proving a hardship for this type of use would have to be rather extraordinary.

Robert Wright questioned if the facilities that are grandfathered in would be a measuring point for the 1,000 foot rule.

Mr. Purcell stated that they would be.

There was no one else present who spoke in favor of or in opposition to the proposed amendment.

END OF THE SUMMARIZATION OF THE TESTIMONY FROM THE AUGUST PUBLIC HEARING

Jeff Hoepfner, 1301 Rockhill Street appeared before the Commission. Mr. Hoepfner stated that he was president of the Neighborhood Association. Mr. Hoepfner stated that the official position of the association is that they would like to see as strict an ordinance as possible. He stated that they want as much distance between the houses as possible. He stated that they understand they are proposing that it be 1,000 feet between houses and they do not want to see anything less than that. He stated that they agree that these houses are necessary to serve the needs of these individuals, but they feel that West Central has gotten its fair share of these facilities. He stated that they feel that if any more of the homes are allowed into the area it will cause a reduction in the property values in the area.

Steve Howell, 2214 Dodge Avenue appeared before the Commission. Mr. Howell stated that he worked at Lutheran Hospital in the Chemical Dependency Treatment Program. He stated that they have limited resources when it comes to where people can go once they have gone into treatment. He stated that the transitional living program benefits the Treatment Program and society a great deal. He stated that he felt that these homes provide a drug free environment for people to go to once they have finished their treatment at a hospital and it allow them to get more people into treatment by making more room in the hospital.

Jim Schaab, 823 Wilt Street appeared before the Commission. Mr. Schaab stated that they have nothing against Mr. Howell's position, they simply want these facilities to be located somewhere else as far as the saturation of homes in West Central.

John Shoaff questioned what is the problem that is created by having these homes in the West Central Neighborhood.

Mr. Schaab stated that, as an example, two years ago he was coming home and there was a young man from the facility across the street from his property lying naked in the snow, raving and causing damage to the houses in the area by tearing off the mailboxes. He stated it took two police cars to subdue the individual.

Robert Hutner stated that just to clarify the issue, he wanted the people to be aware that they were speaking either in favor of the ordinance, which would require that the facilities be spaced a minimum of at least 1,000 feet apart, or against that restriction only.

Mr. Schaab stated that they he was in favor of the ordinance.

John Garzelloni, 1133 Garden Street, appeared before the Commission. Mr. Garzelloni stated that 1,000 feet between houses will matter in protecting property values. He stated that in one case there is three homes in a row and they have a large gravel parking lot. He stated that he felt it destroyed their property values and destroys their neighborhood.

John Shoaff questioned if Mr. Garzelloni was stating that they needed more parking.

Mr. Garzelloni stated he felt that they did not belong in residential neighborhoods. He stated that in the case of the Hope House they have no parking except on the street. He stated that they have several AA meetings a week that require that the people attending park and take up 3 blocks. He stated that neighbors have no place to park.

Ruth Ann Sprunger, 5106 Indiana Avenue, Executive Director of Mental Health Association in Allen County, appeared before the Commission. Ms. Sprunger stated that she was speaking on behalf of a number of Mental Health Agencies that are supporting Hope House in its request. She stated that they would suggest that having two homes close together has some very distinct advantages, there is a possibility of collaboration of activities, there is a collaboration of staffing. She stated that there is a possibility of collaboration of meals and also some homes in some parts of the country, that have graduated facilities, where you stay at one residential home and then graduate as you progress in treatment. She stated that she heard the gentlemen speak about the mental patient who was out in the snow, she stated that as an agency who has taken care of many of those people who are on the street, they continually hear in their office "do something with those people, get them off the street, get the homeless off the street, get them out of my sight, put them somewhere". She stated that as a society we do not want to pay for more mental hospitals, we do not pay for more private hospitals, we don't want to put them in hospitals. She suggested that this is an opportunity for us as a society to do something with these people, to provide them with some decent, transitional living.

Robert Hutner questioned Ms. Sprunger as to what she thought was an alternative to the proposed 1,000 foot regulation.

Ms. Sprunger stated that she did not feel there is a great deal of an alternative. She stated that 1,000 feet or more, makes it more difficult to program.

Robert Hutner questioned what her recommendation for spacing would be.

Ms. Sprunger stated she would recommend the 1,000 feet.

Becky Yager, 1205 Garden Street, appeared before the Commission. Ms. Yager stated that the director of Hope House has stated that

there has never been any complaints about their facility, and that their facility blends into the neighborhood. Ms. Yager stated that she was there to state that was totally untrue. Ms. Yager stated that over the years she and her husband and neighbors have tolerated many things simply because they feared repercussions. She stated maybe not from the clients themselves, but after seeing the types of people who come and go, either visiting or attending a meeting, they fear for their safety and their children's safety. She stated that many of the people who visit the clients in the facilities are alcohol or drug abusers themselves. She stated that these people do not care who they offend in the neighborhood, because there is no connection, between them and anyone who is truly apart of the neighborhood. She stated that she was strongly in favor of the ordinance restricting one facility per 1,000 feet. She stated that the block of Garden Street has only 11 homes, Hope House is one of those 11, one rehab house out of 11 is enough. She stated that this ordinance is a much needed step in the direction of distributing these group homes throughout the city, instead of concentrating them in one given area.

There was an informal audience discussion at this point.

Donna Bangert, 1125 Garden Street, appeared before the Commission. Ms. Bangert stated that the house that is proposed for a second Hope House is right next door to her. She stated that she is of the understanding that they have already purchased the house, without having it approved. She questioned that if this new spacing rule of 1,000 feet goes through, will this house be grandfathered in because it has already been purchased.

Steve Ranshaw stated that if they have already made the purchase and they are beginning the operation, or they are just working on the procedural and organizational things to come to operation. He stated that he would say that they have already begun the operation of that home and that would fit under the grandfather clause.

Ms. Bangert stated that this is what they want to fight. She stated that they had no right to buy that home without the approval of the neighborhood.

Mr. Ranshaw stated that they had the right to purchase the home for the Hope House. He stated that it is classified currently as a residential use and until this ordinance is adopted it is treated as a residential use. He stated just the same as she (Ms. Bangert) has the right to buy a home in a residential neighborhood, they also have that right. He stated that there is no enforceable ordinance against this use at this time.

Ms. Bangert questioned if they were not changing the rule from 3,000 feet to 1,000 feet.

David Wright stated that the 3,000 feet comes up in the statute that gives the city the authority to regulate these homes. It says that they can require up to 3,000 foot distance between group

homes. He stated that the drafters of this particular ordinance chose not to style it to the amount of 3,000 feet but rather 1,000 feet. He stated that there is no ordinance presently on the books that regulates any of the homes.

Dan Miller, 7314 Burnsdale Drive, President of Freedom House appeared before the Commission. Mr. Miller stated that their home is located at the corner of Fox Avenue and Walnut Street. He stated that they would like to say that they have done a lot of good in this particular neighborhood. He stated that their neighbors are damn glad that they are there. He stated that they have taken homes that have been of lower value and the city would like to tear down and put money into them, with new roofs, new windows, air conditioning and fixed the houses up in a considerable fashion. He stated that if there were people there from their neighborhood association they would speak quite highly of them. He stated that unfortunately what the Commission is hearing, to some extent is true, and he felt to some extent, was exaggerated. He stated that not everything works smoothly. He stated that there will be people who will relapse, they can not prevent that. He stated that there are a lot of them who stay sober and come productive citizens. He stated that this is what they are trying to do. He stated that halfway houses in order to be successful need to be together as close as possible. He stated that he was totally against the ordinance of 1,000 feet, because there should be no ordinance of 1,000 feet. He stated that houses need to be side-by-side or as close to or across the street from one another as possible so that people can get together and become a close knit family. He stated that these facilities are needed in this community and more houses are needed, not less.

Al Hofer, 1212 Rockhill Street, appeared before the Commission. He stated he was in favor of the ordinance. He stated that he felt it was a compromise of sorts, neither side a zero foot nor 3,000 foot is perhaps possible. He stated that he felt the staff should be commended. He stated there are a number of ordinances to deal with, there are state and federal statutes to deal with and case law that have to be dealt with regarding this amendment. He stated that it is a good faith effort to deal with the problem.

Greg Purcell, Executive Director of Community & Economic Development appeared before the Commission. Mr. Purcell stated that he would like to commend the staff. He stated that he felt that Steve Ranshaw, Wayne O'Brien and Scott Cassingham did an excellent job on this amendment. He stated that what has been stated that evening were people coming at an issue from two different sides, but generally agreeing on the 1,000 feet being the right distance. He stated there was also some information from Virginia McCaskey of Park Center to the Commissioners that indicates that the state licensing board also has a 1,000 foot separation as part of their review. He stated that Steve Ranshaw has prepared additional information and an alternative to the original ordinance which he is going to present to the Commission.

Steve Ranshaw, Senior Planner with Community & Economic Development appeared before the Commission. Mr. Ranshaw stated that the additional information that the Commission has received was in response to some questions that arose from the first public hearing. He stated that the information was mainly just some further justification for the 1,000 foot separation. He stated that they have received a letter from Virginia McCaskey stating that the state licensing board requires the 1,000 foot separation. He stated that it would seem appropriate for the city of Fort Wayne to be consisted with the requirement of the state. He stated that the second item in the package was a group home regulation survey of other cities in Indiana. This was also in direct response to questions brought up at the first public hearing. He stated that they surveyed 4 cities, Indianapolis, Columbus, South Bend and Evansville. Two of them did not have any regulation at all, one has a 3,000 foot dispersal and Indianapolis does not regulate any facility other than those for the developmentally disabled or the mentally ill and they require a variance of use, which is very restrictive. He stated that the third item was just a mathematical breakdown of just what these dispersals would mean, numbers wise. A 3,000 foot dispersal would be an area of 649 acres, if you went 3,000 feet in each direction it would be 649 acres. He says that the 1,000 foot dispersal would be only a 72 acre circle. He stated that it then breaks down by stating that a 1,000 foot dispersal would, if perfectly spaced throughout the city, allow for 450 group homes. He stated that the last item is what Mr. Purcell alluded to, it is an alternative language to what has been proposed. He stated that they have slightly modified what was originally proposed by allowing this to set up 1,000 foot dispersal requirement, but then would allow a second residential facility for the mentally ill to locate within 1,000 feet, if it was approved by the Board of Zoning Appeals as a Contingent Use.

There was no one else present who spoke in favor of or in opposition to the proposed amendment.

RESOLUTION OF ZONING ORDINANCE TEXT AMENDMENT RECOMMENDATION

WHEREAS the Common Council of the City of Fort Wayne, Indiana, on August 11, 1992 referred a proposed text amendment which proposed amendment was designated as Bill No. G-92-08-30; and,

WHEREAS, the required notice of public hearing on such proposed amendment has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed amendment on August 17, 1992 and September 21, 1992.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this amendment be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

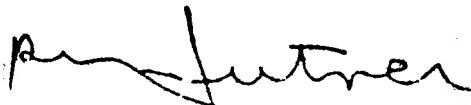
(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law;

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 28, 1992.

Certified and signed this
29th day of September 1992.



Robert Hutner
Secretary

#523

ORIGINAL

ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE The proposed amendment to the Zoning Ordinance shall bring all local definitions and regulations into compliance with state and federal law and shall provide for the administration and regulation of Group Homes and Group Residential Facilities. The amendments include the deletion of those portions of the ordinance currently regulating Group Homes and Half-Way Houses and includes the definitions of developmental disability, mental illness and Group Residential Facility.

EFFECT OF PASSAGE Shall provide for the regulation of Group Homes and Group Residential Facilities in compliance with state and federal law.

B-92-08-20

EFFECT OF NON-PASSAGE Since the existing ordinance text, as it pertains to Group Homes, has been found in violation of state and federal law, there currently is no regulation of Group Homes or Group Residential Facilities. Non-passage would allow this situation to continue.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE) _____

BILL NO. G-92-08-30

REPORT OF THE COMMITTEE ON
REGULATIONS

CLETUS R. EDMONDS, CHAIR
MARK E. GIAQUINTA, VICE CHAIR
RAVINE, SCHMIDT

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) OF THE COMMON COUNCIL
OF THE CITY OF FORT WAYNE, INDIANA AMENDING CHAPTER 33 OF THE
MUNICIPAL CODE OF THE CITY OF FORT WAYNE, INDIANA

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

C. Edmunds
Mark E. Giaquinta
Ravine
Schmidt

DATED: 10-13-92

Sandra E. Kennedy
City Clerk